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In re Application of:

JOHN A. KUELBS ET AL.

Examiner: FADOK, MARK A.

Serial No. 09/619,947

Art Unit: 3625

Filed: 20 JULY 2000

For: METHOD OF PRODUCING, SELLING, AND DISTRIBUTING ARTICLES OF
MANUFACTURE

PRELIMINARY AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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GROUP 3600

Sir:

This Amendment is submitted in response to the Examiner's Final Action dated 25 May 2004.

Please amend the above-identified application as follows:

1. Cancel claims 14, 33, and 52; and
2. Amend claims 1, 10, 13, 20, 29, 39, and 48 as shown.

CERTIFICATE OF MAILING 37 CFR § 1.8(a)	
I hereby certify that this paper or fee is being deposited with the United States Postal Service as First Class Mail service under 37 C.F.R. § 1.8(a) on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.	
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- 5 1. (Currently Amended) A method of selling articles of manufacture, comprising:
- (a) providing an electronic communication system which is available to a plurality of potential purchasers of said articles of manufacture;
- 10 (b) utilizing said electronic communication system to identify a plurality of articles of manufacture, from a plurality of manufacturing entities, which are available for purchase by said plurality of potential purchasers;
- (c) for selected ones of said plurality of articles of manufacture which are available for
- 15 purchase, identifying ~~a plurality of pricing~~ milestones in ~~at least one of each of~~ (1) a manufacturing phase and (2) a distribution phase, which correspond to an increase in commercial risk;
- (d) through prior arrangements with said plurality of manufacturing entities,
- 20 determining a separate price for each of said ~~plurality of pricing~~ milestones to establish a range of prices for said selected ones of said plurality of articles of manufacture, taking into account a change in said commercial risk as said pricing milestones are experienced, and providing a changing price to encourage and reward timely commercial commitments and to reduce the commercial risk to said plurality of
- 25 manufacturing entities;
- (e) utilizing said electronic communication system to make conditional offers of said selected ones of said plurality of articles of manufacture for sale to said plurality of potential purchasers at each of said ~~plurality of pricing~~ milestones with said separate
- 30 price, with said conditional offers specifying at least a minimum number of articles which must be ordered in aggregate before the conditional offer becomes binding upon a manufacturing entity;

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(f) utilizing said electronic communication system to separately communicate with particular ones of said plurality of potential purchasers and to aggregate commercial commitments from said plurality of potential purchasers for each of said pricing milestones and thereby selling said selected ones of said plurality of articles of manufacture; and

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(g) wherein each pricing milestone corresponds to a period of availability in which costs of future supply chain activities or savings related to avoidance of future supply chain activities are reflected in an offer price.

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5 2. (Original) A method selling articles of manufacture according to claim 1, wherein
said electronic communication system allows simultaneous and mass presentation
of said plurality of articles of manufacture.

10 3. (Original) A method of selling articles of manufacture according to claim 2,
wherein said electronic communication system comprises at least one of:

- (1) a local area network;
- (2) a wide area network;
- (3) a cable system;
- (4) an internet communication system; and
- 15 (5) a hybrid television and internet communication system.

4. (Original) A method of selling articles of manufacture according to claim 2,
wherein said electronic communication system comprises an Internet site which
may be accessed through the Internet.

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- 5 5. (Original) A method of selling articles of manufacture according to claim 1,
wherein said electronic communication system is available to potential purchasers
that are pre-qualified as being financially responsible to the extent necessary to
fulfill a commitment to purchase said articles of manufacture.
- 10 6. (Original) A method of selling articles of manufacturer according to claim 1
wherein said potential purchasers comprise resellers of said articles of manufacture
which purchase large quantities of said articles of manufacture for resale.
- 15 7. (Original) A method of selling articles of manufacture according to claim 1
wherein said potential purchasers comprise individual consumers of said articles of
manufacture which purchase small quantities of said articles of manufacture for
personal use.
- 20 8. (Original) A method of selling articles of manufacture according to claim 1
wherein said potential purchasers comprise a mixture of:
- (1) resellers of said articles of manufacture which purchase large quantities of said
articles of manufacture for resale; and
- 25 (2) individual consumers of said articles of manufacture which purchase small
quantities of said articles of manufacture for personal use.
- 30 9. (Original) A method of selling articles of manufacture according to claim 1,
wherein said electronic communication system is utilized to identify said plurality of
article of manufacture by providing at least a product specification, quantities
available, and a delivery date.

5 10. (Currently Amended) A method of selling articles of manufacture according to claim 1, wherein said pricing milestones include certain natural milestones in at least ~~one~~ each of (a) said manufacturing stage and (b) said distribution stage, including at least a plurality of pricing milestones selected from the following list of pricing milestones:

- 10 (1) a design stage for an article of manufacture;
(2) a pre-production stage for an article of manufacture;
(3) a production stage for an article of manufacture;
(4) a packaging stage for an article of manufacture;
(5) a packing-for-shipment stage for an article of manufacture;
15 (6) a shipping stage for an article of manufacture;
(7) a warehousing stage for an article of manufacture; and
(8) an in-stock stage for an article of manufacture.

20 11. (Original) A method of selling articles of manufacture, according to claim 1, wherein said articles of manufacture comprise at least one of:

- (1) a durable article;
(2) a non-perishable article;
(3) a processed, perishable article;
25 (4) a processed commodity.

12. (Original) A method of selling articles of manufacture, according to claim 1, wherein said articles of manufacture are manufactured at production sites which are located remotely from said plurality of potential purchasers which are located at
30 a plurality of consumption locations.

5 13. (Currently Amended) A method of selling articles of manufacture, according to claim 1, wherein said step of determining a separate price comprises:

(d) determining a separate price for each of said ~~plurality of pricing~~ milestones to establish a series of increasing, discrete prices for said selected ones of
10 said plurality of articles of manufacture, with each discrete price taking into account an increase in said commercial risk as said pricing milestones are experienced, wherein said series of increasing, discrete prices provide a corresponding incrementally decreasing discount in price to encourage and reward early commercial commitments.

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14. (Canceled)

15. (Original) A method of selling articles of manufacture, according to claim 14, wherein said marketing interface includes an affinity reward system for soliciting,
20 receiving and rewarding input from said plurality of potential purchasers concerning proposed articles of manufacture, and for aggregating said input.

16. (Original) A method of selling articles of manufacture, according to claim 14, wherein said marketing interface includes a demand research model which solicits,
25 receives, and aggregates interest from said plurality of potential purchasers in proposed articles of manufacture.

17. (Original) A method of selling articles of manufacture, according to claim 16,
30 wherein said aggregated input from said plurality of potential purchasers is utilized in making make/don't make decisions for said proposed articles of manufacture.

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18. (Original) A method of selling articles of manufacture, according to claim 16, wherein said aggregated input from said potential purchasers is provided to potential manufacturers in order to assist them in making make/don't make decisions for said proposed articles of manufacture.

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19. (Original) A method of selling articles of manufacture, according to claim 16, wherein said aggregated input from said plurality of potential purchasers is provided to potential manufacturers in-part in return for a production guarantee from potential manufacturers.

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- 5 20. (Currently Amended) A method of selling articles of manufacture, comprising:
- (a) providing a trusted intermediary entity;
- (b) providing at least one data processing system which is under the control of said
10 trusted intermediary entity and which includes an electronic communication system
 which is available to a plurality of potential purchasers of said articles of manufacture;
- (c) utilizing said trusted intermediary entity to qualify said plurality of potential
 purchasers for participation in commercial transactions utilizing said electronic
15 communication system;
- (d) utilizing said trusted intermediary to identify a plurality of articles of manufacture
 from a plurality of manufacturing entities;
- 20 (e) utilizing said trusted intermediary to negotiate a conditional offer from each of
 said plurality of manufacturing entities for each of said plurality of articles of
 manufacture;
- (f) wherein each conditional offer specifies at least one price for each of said plurality
25 of articles of manufacture and a minimum number which must be ordered before said
 conditional offer becomes binding;
- (g) for selected ones of said plurality of articles of manufacture which are available
 for purchase, identifying a ~~plurality of pricing~~ milestones in ~~at least one~~ each of (1) a
30 manufacturing phase and (2) a distribution phase, which correspond to an increase in
 commercial risk;

5 (h) determining a separate aggregate minimum order number and price for each of
said ~~plurality of pricing milestones~~ to establish a range of different prices for said
selected ones of said plurality of articles of manufacture, taking into account an
increase in said commercial risk as said pricing milestones are experienced, and
providing a change in price to encourage and reward timely commercial commitments
10 and to reduce the commercial risk for said plurality of manufacturing entities; -

(i) utilizing said electronic communication system to offer said selected ones of said
plurality of articles of manufacture for sale to said plurality of potential purchasers at
15 each of said ~~plurality of pricing milestones~~ with said separate price; and

(j) utilizing said electronic communication system to offer said plurality of articles of
manufacture for sale in the form of a conditional offer and to separately communicate
with particular ones of said plurality of potential purchasers in order to aggregate
20 commercial commitments from said plurality of potential purchasers and to meet said
separate aggregate minimum order number for each of said pricing milestones and
thereby making said conditional offer binding upon a particular manufacturing entity
of a particular one of said plurality of articles of manufacture

25 (k) wherein each pricing milestone corresponds to a period of availability in which
costs of future supply chain activities or savings related to avoidance of future supply
chain activities are reflected in an offer price.

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5 21. (Original) A method selling articles of manufacture according to claim 20,
wherein said electronic communication system allows simultaneous and mass
presentation of said plurality of articles of manufacture.

22. (Original) A method of selling articles of manufacture according to claim 20,
10 wherein said electronic communication system comprises at least one of:

- (1) a local area network;
- (2) a wide area network;
- (3) a cable system;
- (4) an internet communication system; and
- 15 (5) a hybrid television and internet communication system.

23. (Original) A method of selling articles of manufacture according to claim 20,
wherein said electronic communication system comprises an Internet site which
may be accessed through the Internet.
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24. (Amended Once) A method of selling articles of manufacture according to claim
20, wherein said electronic communication system is available to potential purchasers
that are pre-qualified by said trusted intermediary entity as being financially
responsible to fulfill a commitment to purchase said articles of manufacture.

25. (Original) A method of selling articles of manufacturer according to claim 20
25 wherein said potential purchasers comprise resellers of said articles of manufacture
which purchase large quantities of said articles of manufacture for resale.

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- 5 26. (Original) A method of selling articles of manufacture according to claim 20
wherein said potential purchasers comprise individual consumers of said articles of
manufacture which purchase small quantities of said articles of manufacture for
personal use.
- 10 27. (Original) A method of selling articles of manufacture according to claim 20
wherein said potential purchasers comprise a mixture of:
- (1) resellers of said articles of manufacture which purchase large quantities of said
articles of manufacture for resale; and
- 15 (2) individual consumers of said articles of manufacture which purchase small
quantities of said articles of manufacture for personal use.
- 20 28. (Original) A method of selling articles of manufacture according to claim 20,
wherein said electronic communication system is utilized by said trusted
intermediary entity to identify said plurality of article of manufacture by providing
at least a product specification, quantities available, and a projected delivery date.

- 5 29. (Currently Amended) A method of selling articles of manufacture according to claim 20, wherein said pricing milestones include certain natural milestones in at least ~~one~~each of (a) said manufacturing stage and (b) said distribution stage, including at least a plurality of pricing milestones selected from the following list of pricing milestones:
- 10 (1) a design stage for an article of manufacture;
(2) a pre-production stage for an article of manufacture;
(3) a production stage for an article of manufacture;
(4) a packaging stage for an article of manufacture;
(5) a packing-for-shipment stage for an article of manufacture;
- 15 (6) a shipping stage for an article of manufacture;
(7) a warehousing stage for an article of manufacture; and
(8) an in-stock stage for an article of manufacture.
- 20 30. (Original) A method of selling articles of manufacture, according to claim 20, wherein said articles of manufacture comprise at least one of:
- (1) a durable article;
(2) a non-perishable article;
(3) a processed, perishable article;
- 25 (4) a processed commodity.
- 30 31. (Original) A method of selling articles of manufacture, according to claim 20, wherein said articles of manufacture are manufactured at production sites which are located remotely from said plurality of potential purchasers which are located at a plurality of consumption locations.

5 32. (Original) A method of selling articles of manufacture, according to claim 20,
wherein said step of determining a separate price comprises:

(f) determining a separate price for each of said plurality of pricing milestones
to establish a series of increasing, discrete prices for said selected ones of said
10 plurality of articles of manufacture, with each discrete price taking into account a
general increase in said commercial risk as said pricing milestones are experienced,
wherein said series of increasing, discrete prices provide a corresponding
incrementally decreasing discount in price to encourage and reward early commercial
commitments.

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33. (Cancelled)

34. (Original) A method of selling articles of manufacture, according to claim 33,
wherein said marketing interface includes an affinity reward system for soliciting,
20 receiving and rewarding input from said plurality of potential purchasers concerning
proposed articles of manufacture, and for aggregating said input.

35. (Original) A method of selling articles of manufacture, according to claim 33,
wherein said marketing interface includes a demand research model which solicits,
25 receives, and aggregates interest from said plurality of potential purchasers in
proposed articles of
manufacture.

36. (Original) A method of selling articles of manufacture, according to claim 35,
30 wherein said aggregated input from said plurality of potential purchasers is utilized in
making make/don't make decisions for said proposed articles of manufacture.

5 37. (Original) A method of selling articles of manufacture, according to claim 35,
wherein said aggregated input from said potential purchasers is provided to potential
manufacturers in order to assist them in making make/don't make decisions for said
proposed articles of manufacture.

10 38. (Original) A method of selling articles of manufacture, according to claim 35,
wherein said aggregated input from said plurality of potential purchasers is provided
to potential manufacturers in-part in return for a production guarantee from potential
manufacturers.

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5 39. (Currently Amended) A method of selling articles of manufacture, comprising:

(a) providing a trusted intermediary entity;

10 (b) providing an virtual exchange which allows for a relatively direct, aggregated, and moderated series of commercial interactions between a plurality of manufacturers of articles of manufacture and a plurality of potential purchasers of said articles of manufacture, which is under control of said trusted intermediary entity;

15 (c) providing at least one data processing system which is under the control of said trusted intermediary entity and which includes an electronic communication system which is utilized to enable said virtual exchange and which is available to said plurality of manufacturers of said plurality of articles of manufacture for offering for sale through said virtual exchange said plurality of articles of manufacture and to a plurality of potential purchasers of said plurality of articles of manufacture;

20 (d) utilizing said trusted intermediary entity to qualify said plurality of potential purchasers for participation in commercial transactions utilizing said electronic communication system;

25 (e) utilizing said trusted intermediary entity to obtain production guarantees from said plurality of manufacturers of said plurality of articles of manufacture, in the form of a conditional offer each of which is binding upon said plurality of manufacturers if an aggregate minimum number of orders is obtained in a predetermined amount of time;

30 (f) utilizing said electronic communication system of said virtual exchange to identify a plurality of articles of manufacture which are available for purchase by said plurality of potential purchasers through said virtual exchange;

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(g) for selected ones of said plurality of articles of manufacture which are available for purchase, identifying ~~a plurality of pricing milestones in at least one~~each of (1) a manufacturing phase and (2) a distribution phase, which correspond generally to an increase in commercial risk;

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(h) determining a separate price for each of said plurality of pricing milestones to establish a range of changing prices for said selected ones of said plurality of articles of manufacture, taking into account a change in said commercial risk experienced by said plurality of manufacturers of said selected ones of said plurality of articles of manufacture as said pricing milestones are experienced, and providing a changing price to said plurality of potential purchasers to encourage and reward early commercial commitments and to reduce commercial risk to said plurality of manufacturers;

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20 (i) utilizing said electronic communication system of said virtual exchange to offer said selected ones of said plurality of articles of manufacture for sale to said plurality of potential purchasers at each of said plurality of pricing milestones with said separate price;

25 (j) utilizing said electronic communication system of said virtual exchange to separately communicate with particular ones of said plurality of potential purchasers and to aggregate commercial commitments from said particular ones of said plurality of potential purchasers for each of said pricing milestones in order to meet said aggregate minimum number of orders for said selected ones of said plurality of
30 articles of manufacture; and

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(k) wherein each pricing milestone corresponds to a period of availability in which costs of future supply chain activities or savings related to avoidance of future supply chain activities are reflected in an offer price.

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5 40. (Original) A method selling articles of manufacture according to claim 39,
wherein said electronic communication system allows simultaneous and mass
presentation of said plurality of articles of manufacture.

41. (Original) A method of selling articles of manufacture according to claim 39,
10 wherein said electronic communication system comprises at least one of:

- (1) a local area network;
- (2) a wide area network;
- (3) a cable system;
- 15 (4) an internet communication system; and
- (5) a hybrid television and internet communication system.

42. (Original) A method of selling articles of manufacture according to claim 39,
wherein said electronic communication system comprises an internet site which may
20 be accessed through the Internet.

43. (Original) A method of selling articles of manufacture according to claim 39,
wherein said electronic communication system is available to potential purchasers
that are pre-qualified as being financially responsible to the extent necessary to fulfill
25 a commitment to purchase said articles of manufacture.

44. (Original) A method of selling articles of manufacturer according to claim 39
wherein said potential purchasers comprise resellers of said articles of manufacture
which purchase large quantities of said articles of manufacture for resale.

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5 45. (Original) A method of selling articles of manufacture according to claim 39 wherein said potential purchasers comprise individual consumers of said articles of manufacture which purchase small quantities of said articles of manufacture for personal use.

10 46. (Original) A method of selling articles of manufacture according to claim 39 wherein said potential purchasers comprise a mixture of:

(1) resellers of said articles of manufacture which purchase large quantities of said articles of manufacture for resale; and

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(2) individual consumers of said articles of manufacture which purchase small quantities of said articles of manufacture for personal use.

20 47. (Original) A method of selling articles of manufacture according to claim 39, wherein said electronic communication system is utilized to identify said plurality of article of manufacture by providing at least a product specification, quantities available, and a projected delivery date.

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5 45. (Original) A method of selling articles of manufacture according to claim 39 wherein said potential purchasers comprise individual consumers of said articles of manufacture which purchase small quantities of said articles of manufacture for personal use.

10 46. (Original) A method of selling articles of manufacture according to claim 39 wherein said potential purchasers comprise a mixture of:

(1) resellers of said articles of manufacture which purchase large quantities of said articles of manufacture for resale; and

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(2) individual consumers of said articles of manufacture which purchase small quantities of said articles of manufacture for personal use.

20 47. (Original) A method of selling articles of manufacture according to claim 39, wherein said electronic communication system is utilized to identify said plurality of article of manufacture by providing at least a product specification, quantities available, and a projected delivery date.

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5 48. (Currently Amended) A method of selling articles of manufacture according to claim 39, wherein said pricing milestones include certain natural milestones in at least ~~one~~each of (a) said manufacturing stage and (b) said distribution stage, including at least a plurality of pricing milestones selected from the following list of pricing milestones:

- 10
- (1) a design stage for an article of manufacture;
 - (2) a pre-production stage for an article of manufacture;
 - (3) a production stage for an article of manufacture;
 - (4) a packaging stage for an article of manufacture;
 - 15 (5) a packing-for-shipment stage for an article of manufacture;
 - (6) a shipping stage for an article of manufacture;
 - (7) a warehousing stage for an article of manufacture; and
 - (8) an in-stock stage for an article of manufacture.

20 49. (Original) A method of selling articles of manufacture, according to claim 39, wherein said articles of manufacture comprise at least one of:

- 25
- (1) a durable article;
 - (2) a non-perishable article;
 - (3) a processed, perishable article;
 - (4) a processed commodity.

30 50. (Original) A method of selling articles of manufacture, according to claim 39, wherein said articles of manufacture are manufactured at production sites which are located remotely from said plurality of potential purchasers which are located at a plurality of consumption locations.

5 51. (Original) A method of selling articles of manufacture, according to claim 39,
wherein said step of determining a separate price comprises:

(h) determining a separate price for each of said plurality of pricing
milestones to establish a series of increasing, discrete prices for said selected ones of
10 said plurality of articles of manufacture, with each discrete price taking into account a
general increase in said commercial risk to said plurality of manufacturers of said
selected ones of said plurality of articles of manufacture as said pricing milestones are
experienced, wherein said series of increasing, discrete prices provide a corresponding
incrementally decreasing discount in price to said plurality of potential purchasers to
15 encourage and reward early commercial commitments.

52. (Canceled)

53. (Original) A method of selling articles of manufacture, according to claim 52,
20 wherein said marketing interface includes an affinity reward system for soliciting,
receiving and rewarding input from said plurality of potential purchasers concerning
proposed articles of manufacture, and for aggregating said input.

54. (Original) A method of selling articles of manufacture, according to claim 52,
25 wherein said marketing interface of said virtual exchange includes a demand
research model which solicits, receives, and aggregates interest from said plurality
of potential purchasers in proposed articles of manufacture.

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- 5 55. (Original) A method of selling articles of manufacture, according to claim 54, wherein said aggregated input from said plurality of potential purchasers is utilized by said plurality of manufacturers in making make/don't make decisions for said proposed articles of manufacture.
- 10 56. (Original) A method of selling articles of manufacture, according to claim 54, wherein said aggregated input from said plurality of potential purchasers is provided to potential manufacturers in-part in return for a production guarantee from potential manufacturers.